

AN ACT

ENTITLED, An Act to revise certain provisions regarding the chemical testing of commercial drivers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 32-12A-46 be amended to read:

32-12A-46. Any person who holds or is required to hold a commercial learner's permit or commercial driver license and operates any commercial or noncommercial motor vehicle in this state is considered to have given consent to the withdrawal of blood or other bodily substance to determine the amount of alcohol in that person's blood, or to determine the presence of any controlled drug or substance. The chemical analysis shall be administered at the direction of a law enforcement officer who, after stopping or detaining any person who holds or is required to hold a commercial learner's permit or commercial driver license, has probable cause to believe that the person was driving or in actual physical control of a commercial or noncommercial motor vehicle while having any alcohol or drugs in that person's system. Any person requested by a law enforcement officer under this section to submit to a chemical analysis shall be advised by the officer that:

- (1) If the person refuses to submit to the chemical analysis, none shall be given; and
- (2) If the person refuses to submit to the chemical analysis requested, the person shall be:
  - (a) Immediately placed out of service for a period of twenty-four hours, if operating a commercial motor vehicle at the time of the refusal; and
  - (b) Disqualified from operating a commercial motor vehicle for a period of not less than one year; or
- (3) If the person submits to a chemical analysis which discloses that the person was operating the commercial motor vehicle while there was 0.04 percent or more by weight of alcohol

in that person's blood the person shall be disqualified from operating a commercial motor vehicle for not less than one year.

Section 2. That § 32-12A-36 be amended to read:

32-12A-36. Any person is disqualified from driving a commercial motor vehicle for a period of not less than one year:

- (1) If convicted of a first violation of driving or being in actual physical control of a commercial or noncommercial motor vehicle while under the influence of alcohol, or any controlled drug or substance, in violation of § 32-23-1;
- (2) If convicted of a first violation of driving or being in actual physical control of a commercial motor vehicle while there is 0.04 percent or more by weight of alcohol in that person's blood as shown by chemical analysis of that person's breath, blood or other bodily substance, in violation of § 32-12A-44;
- (3) If convicted of a first violation of leaving the scene of an accident while operating a commercial or noncommercial motor vehicle, in violation of § 32-34-5 or 32-34-6;
- (4) If convicted of a first violation of using a commercial or noncommercial motor vehicle in the commission of any felony other than a felony described in § 32-12A-38; or
- (5) For refusing to submit to a chemical analysis for purposes of determining the amount of alcohol in that person's blood while driving a commercial or noncommercial motor vehicle in violation of § 32-12A-43 or 32-12A-46;
- (6) If convicted of a first violation of operating a commercial motor vehicle while the person's commercial driver license is revoked, suspended, or canceled or the person is disqualified from operating a commercial motor vehicle in violation of § 32-12A-8. The department may not issue a new license until one year from the date the person would otherwise have been entitled to apply for a new license; or

- (7) If convicted of a first violation of causing a fatality through the negligent operation of a commercial motor vehicle.

If any of these violations or refusal occurred while transporting hazardous material required to be placarded, the person is disqualified for a period of not less than three years.

An Act to revise certain provisions regarding the chemical testing of commercial drivers.

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I certify that the attached Act  
originated in the

SENATE as Bill No. 34

\_\_\_\_\_  
Secretary of the Senate

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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 34

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State